

04 NCAC 24C .0209 is proposed for amendment as follows:

**04 NCAC 24C .0209 CONDUCT OF HEARINGS**

(a) Hearings may be conducted by a Hearing Officer or an Appeals Referee, including the Chief Appeals Referee and the Deputy Chief Appeals Referee. Consistent with G.S. 96-15(f), all hearings shall be conducted in a manner to preserve the substantial rights of the parties.

(1) The parties to an appeal before an Appeals Referee have the right to present relevant and material evidence as determined by the Appeals Referee.

(2) The Appeals Referee may ask questions to develop the record as to the relevant facts, circumstances, and issues presented at the hearing.

(3) The Appeals Referee may examine parties and witnesses, and shall allow cross-examination, ~~to the extent necessary to afford the parties due process.~~

(4) All issues relevant to the appeal shall be considered and ruled upon.

(b) The Appeals Referee shall give each party 10 minutes from the time of the scheduled hearing to appear for the hearing. If the appealing party fails to appear at the hearing and a continuance had not been previously granted, the Appeals Referee shall issue an Appeals Decision dismissing the appeal. If the appealing party is present and the non-appealing party fails to appear, the Appeals Referee shall proceed with the hearing.

(c) If a party wishes to introduce documents or other evidence not provided by the Appeals Section with the Appeals Hearing Notice, the party shall provide a copy to the Appeals Referee and to all other parties prior to the hearing. A party desiring to introduce documents or other evidence at a hearing shall provide an authenticated copy plus one copy for the Appeals Referee to include in the official record, and a copy to each party to the proceeding. Documents or other evidence shall be provided to the opposing party prior to the hearing.

(d) If the number of documents or other exhibits, e.g., photographs, screenshot, introduced by one party exceeds 25 pages, the party offering the documents or other exhibits shall number each document or other exhibit and provide an index listing each exhibit and its corresponding page number. The index shall accompany the exhibits and become part of the official hearing record. A party offering numerous documents into evidence shall prepare a list of documents in the order of their presentation. The list shall be provided to the Appeals Referee and opposing party before the hearing, to become part of the official hearing record.

(e) Official notice may be taken by the Appeals Referee of all facts for which judicial notice may be taken as well as and of other facts within the specialized knowledge of the ~~DES Division~~. The official notice and its source shall be stated on the record ~~and made known to the parties at the earliest practicable time.~~ A Each party shall be given an opportunity to dispute the noticed fact by argument and submission of evidence on the record.

*History Note: Authority G.S. 96-4; 96-15; 20 CFR 650.2;  
Eff. July 1, 2015;  
Amended Eff. June 1, 2022.*